

SCOTT N. SCHOOLS, SC SBN 9990
United States Attorney
JOANN M. SWANSON, CSBN 88143
Assistant United States Attorney
Chief, Civil Division
ILA C. DEISS, NY SBN 3052909
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Telephone: (415) 436-7124
FAX: (415) 436-7169

Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ZHONG ZHANG,
JIE MA,

Plaintiffs,

v.

EMILIO T. GONZALEZ, Director of the U.S.
Citizenship and Immigration Services;
ALBERTO R. GONZALES, as Attorney General
of the United States;
MICHAEL CHERTOFF, in his Official Capacity,
Secretary, United States Department of Homeland
Security,

Defendants.

No. C 07-2754 JF

**JOINT CASE MANAGEMENT
STATEMENT and [Proposed] ORDER**

1. Jurisdiction and Service:

The basis asserted by plaintiffs for this Court's jurisdiction is 28 U.S.C. § 1331, 28 U.S.C. § 1361 and 5 U.S.C. § 702. The parties do not dispute that venue is proper in this district. No issues exist regarding personal jurisdiction or venue, and no parties remain to be served.

2. Facts:

The plaintiffs each filed a Form I-485 application to adjust their status to lawful permanent resident with the United States Citizenship and Immigration Services (USCIS) on or about April

1 12, 2005. The USCIS has not yet adjudicated the Form I-485 applications. The plaintiffs filed an
2 action on May 25, 2007, seeking an order from this Court directing USCIS to adjudicate their
3 Form I-485 applications. Their name checks are pending with the Federal Bureau of Investigation
4 (FBI).

5 3. Legal Issues:

6 Whether this Court should dismiss the plaintiffs' action for lack of subject matter jurisdiction.
7 If this Court has jurisdiction, whether the USCIS is processing the plaintiffs' I-485 applications
8 within a reasonable period of time.

9 4. Motions:

10 The parties intend to file cross-motions for summary judgment.

11 5. Amendment of Pleadings:

12 No parties, claims or defenses are expected to be added or dismissed.

13 6. Evidence Preservation:

14 The parties do not have any evidence that falls within this category.

15 7. Disclosures:

16 The parties believe that the initial disclosure requirements of Fed. R. Civ. P. 26 do not apply to
17 this case.

18 8. Discovery:

19 The parties do not intend to take any discovery at this time.

20 9. Class Actions:

21 N/A

22 10. Related Cases:

23 The parties are not aware of any related case or cases.

24 11. Relief:

25 The plaintiffs ask this Court to direct USCIS to adjudicate their Form I-485 applications for
26 adjustment of status to legal permanent residents.

12. Settlement and ADR:

This Court granted the parties' joint request for an exemption from the Court's ADR process on August 27, 2007.

13. Consent to Magistrate Judge for All Purposes:

Plaintiffs declined assignment of this case to a magistrate judge.

14. Other References:

The parties do not believe that this case is suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues:

The parties do not believe that the issues can be narrowed by agreement or by motion, and do not have suggestions to expedite the presentation of evidence at trial (e.g. through summaries or stipulated facts), and any request to bifurcate issues, claims or defenses.

16. Expedited Schedule:

The parties believe this case can be resolved on cross-motions for summary judgment without a hearing before the Court.

17. Scheduling:

The parties propose the following schedule on the parties' cross-motions for summary judgment and do not request a hearing:

| | |
|-------------------------------------|--------------------|
| Cross-Motions for Summary Judgment: | September 28, 2007 |
|-------------------------------------|--------------------|

| | |
|--------------------|------------------|
| Cross-Oppositions: | October 12, 2007 |
|--------------------|------------------|

18. Trial:

The parties do not anticipate the need for a trial in this case.

19. Disclosure of Non-party Interested Entities or Persons:

The parties' intend to file the "Certification of Interested Entities or Persons" required by Civil Local Rule 3-16.

20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this matter.

None.

1 Date: August 29, 2007

Respectfully submitted,

2 SCOTT N. SCHOOLS
3 United States Attorney

4 /s/
5 ILA C. DEISS
6 Assistant United States Attorney
7 Attorneys for Defendants

8 Date: August 29, 2007

9 /s/
10 DANIEL T. HUANG
11 Attorney for Plaintiffs

12 **CASE MANAGEMENT ORDER**

13 The Joint Case Management Statement and Proposed Order are hereby adopted by the
14 Court as the Case Management Order for the case, and the parties are ordered to comply with this
15 Order.

16 Date:

17 JEREMY FOGEL
18 United States District Judge
19
20
21
22
23
24
25
26
27
28